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HOUSE BILL 180

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

J. "Andy" Kissner

AN ACT

RELATING TO PUBLIC WORKS PROJECTS; AUTHORIZING A DESIGN AND BUILD PROJECT WHEN THE CONSTRUCTION COST IS TEN MILLION DOLLARS (\$10,000,000) OR LESS; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-119.1 NMSA 1978 (being Laws 1997, Chapter 171, Section 5) is amended to read:

"13-1-119.1. PUBLIC WORKS PROJECT DELIVERY SYSTEM - DESIGN AND BUILD PROJECTS AUTHORIZED. - -

A. Except for road and highway construction or reconstruction projects of the state highway and transportation department or any local public body, a design and build project delivery system may be authorized when the state purchasing agent or a central purchasing office makes a

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1 determination in writing that it is appropriate and in the
2 best interest of the state or local public body to use the
3 system [~~on a specific project with a maximum allowable~~
4 ~~construction cost of more than ten million dollars~~
5 ~~(\$10,000,000)~~]. The determination shall be issued only after
6 the state purchasing or central purchasing office has taken
7 into consideration the following criteria, which shall be used
8 as the minimum basis in determining when to use the design and
9 build process:

- 10 (1) the extent to which the project
- 11 requirements have been or can be adequately defined;
- 12 (2) time constraints for delivery of the
- 13 project;
- 14 (3) the capability and experience of
- 15 potential teams with the design and build process;
- 16 (4) the suitability of the project for use of
- 17 the design and build process as concerns time, schedule, costs
- 18 and quality; and
- 19 (5) the capability of the using agency to
- 20 manage the project, including experienced personnel or outside
- 21 consultants, and to oversee the project with persons who are
- 22 familiar with the design and build process.

23 B. When a determination has been made by the state
24 purchasing agent or a central purchasing office that it is
25 appropriate to use a design and build project delivery system,

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1 the design and build team shall include, as needed, a New
2 Mexico registered engineer or architect and a contractor
3 properly licensed in New Mexico for the type of work required.

4 C. For each proposed state or local public works
5 design and build project, a two-phase procedure for awarding
6 design and build contracts shall be adopted and shall include
7 at a minimum the following:

8 (1) during phase one, and prior to
9 solicitation, documents shall be prepared for a request for
10 qualifications by a registered engineer or architect, either
11 in house or selected in accordance with Sections 13-1-120
12 through 13-1-124 NMSA 1978, and shall include minimum
13 qualifications, a scope of work statement and schedule,
14 documents defining the project requirements, the composition
15 of the selection committee and a description of the phase two
16 requirements and subsequent management needed to bring the
17 project to completion. Design and build qualifications of
18 responding firms shall be evaluated and a maximum of five
19 firms shall be short listed in accordance with technical and
20 qualifications-based criteria; and

21 (2) during phase two, the short-listed firms
22 shall be invited to submit detailed specific technical
23 concepts or solutions, costs and scheduling. Unsuccessful
24 firms may be paid a stipend to cover proposal expenses. After
25 evaluation of these submissions, selection shall be made and

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1 the contract awarded to the highest ranked firm.

2 D. To ensure fair, uniform, clear and effective
3 procedures that will strive for the delivery of a quality
4 project on time and within budget, the secretary, in
5 conjunction with the appropriate and affected professional
6 associations and contractors, shall promulgate regulations
7 applicable to all using agencies, which shall be followed by
8 all using agencies when procuring a design and build project
9 delivery system.

10 E. A state agency shall make the decision on a
11 design and build project delivery system for a state public
12 works project, and a local public body shall make that
13 decision for a local public works project. A state agency
14 shall not make the decision on a design and build project
15 delivery system for a local public works project. "

16 Section 2. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 1999.